

Remarks

The Office Action mailed December 14, 2004 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-11 and 13-14 are now pending in this application. Claims 12 and 15-20 are canceled. Claims 1-14 stand rejected.

The rejection of Claims 1-14 under 35 U.S.C. § 103(a) as being unpatentable over JP10218552 is respectfully traversed.

JP10218552 describes a clamp device for suspending rock wool to improve efficiency in the loading or unloading of rock wool. More specifically, a clamp device 12 for transferring of laminated rock wool made of longitudinally superimposed mat-like rock wool, comprises a frame 14, rocker members 16 and coil springs. The frame 14 is constituted of two cross members 20 and two longitudinal members 22, all of which form a rectangle. Each of the cross members 20 is provided on its underside with a contact plate 24 adapted to contact with the top of laminated rock wool. The rocker members 16 each constituted of a base 40, legs 42 and a side plate 44 are pressed by the springs in the directions away from each other. The side plates 44 are formed on their faces facing each other with plural projections 46 with vertical and horizontal intervals held between one and the next. The bases 40 are provided at their longitudinal middle portions with arms 48, which extend toward each other and have at their tips wire mounting parts 50.

Claim 1 recites an apparatus comprising “an upper plate assembly comprising an upper plate which comprises a main portion, a first extension member and a second extension member, said extension members extending from said main portion at an angle,” “a lower plate assembly comprising a lower plate and connected to said upper plate assembly,” “a first side plate and a second side plate, said side plates connected to said lower plate assembly, each said side plate comprising a top and a bottom” and “an engaging assembly attached to said upper plate

assembly and said lower plate assembly, engagement of said engaging assembly causes said bottom of said first side plate to move toward said bottom of said second side plate and further causes said lower plate assembly to move towards said upper plate assembly.”

JP10218552 does not describe nor suggest an apparatus which includes an upper plate assembly having an upper plate which comprises a main portion, a first extension member, and a second extension member. Further, JP1028552 does not describe or suggest a lower plate assembly comprising a lower plate and connected to the upper plate assembly. Rather, JP10218552 describes two frame members having a pair of rotating members (bases 40) extending between the ends of the two frame members forming a substantial rectangle. The combination of the two frame members and two rotating members in combination cannot be reasonably be construed as a plate having a main portion and two extension members as such a structural limitation is to be understood as describing a reasonably solid surface.

In the Office Action at Page 3 it is stated that JP10218552 teaches the recited engaging assembly that is attached to both an upper plate assembly and lower plate assembly. Referring again to JP10218552, the Office Action states that the engaging assembly is taught by the item denoted by reference numeral 52. However, in the same paragraph, the Office Action states that the recited lower plate assembly is taught by reference numerals 16 and 42 of the cited reference. The items denoted by reference numerals 16 and 42 are not attached to the item denoted by reference numeral 52. As such the structure recited in Claim 1 is not anticipated nor suggested by JP10218552.

Further, the Office Action of December 14, 2004 quotes *Ex Parte Marsham*, 2 USPQ 2d 1647 stating “recitation with respect to manner in which claimed apparatus is intended to be employed does not differentiate claimed apparatus from prior art apparatus satisfying the claimed structural limitations.” Applicant respectfully submits that *Ex Parte Marsham* does not apply as JP10218552 simply does not satisfy the claimed structural limitations recited in Claim 1, nor for the claims which depend from Claim 1 as further described below.

For all the reasons set forth above, Claim 1 is submitted to be patentable over JP10218552.

Claims 2-9 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2- 9 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 2- 9 likewise are patentable over JP10218552.

In addition to its dependency from Claim 1, Applicant further submits that dependent Claim 2 is patentable over the cited art, JP10218552, due to the recitation that “a front roller assembly and a back roller assembly, each extending from said upper plate assembly bottom. The Office Action analogizes items denoted by reference numeral 26 as representative of the claimed front roller assembly and the back roller assembly.

Nothing in JP10218552 can be reasonably construed as either a front roller assembly or a back roller assembly. As described above, JP10218552 describes rotating members (40 or 26) extending between the ends of the two frame members. The rotating members cannot be construed as a roller assembly. Still further, rotating members (40 or 26) do not extend from a bottom of an upper plate assembly as do the recited roller assemblies. As such, it is submitted that Claim 2 is patentable over the cited art.

Now referring to Claim 3, the Office Action states that, referring to JP10218552, the first side plate is pivotably connected to the lower plate assembly. However, reviewing the Figures of JP10218552 it is apparent that items denoted by 16 and 42 are not pivotable with respect to the item denoted by 44. Further, the item denoted by 44 (and equated in the Office Action to the claimed side plates) does not include a roller assembly that is configured to contact and move along the first extension member (which the Office Action refers to as the item denoted by 48 in JP10218552). As such, it is submitted that Claim 3 is patentable over the cited art.

Now referring to Claim 6, which recites a guide pin and at least one biasing member for biasing the lower plate assembly from the upper plate assembly, none of these recitations are

taught or suggested by JP10218552. The items denoted by 16 and 42 in JP10218552 (equated in the Office Action to the claimed lower plate assembly) are fixed in position with respect to the item denoted by 26 (which is equated to at least a portion of the claimed upper plate assembly). Being fixed in position relative to one another cannot be reasonably construed as a biasing away from the other. As such, it is submitted that Claim 6 is patentable over the cited art.

With respect to Claims 4, 5, 7, 8, and 9, similarly to the above explanations relating to the recitations of Claims 2, 3, and 6, recitations are included within each of Claims 4, 5, 7, 8, and 9 which cannot be reasonably construed as being rendered obvious by JP10218552. Therefore it is once again submitted that Claims 4, 5, 7, 8, and 9 are patentable over the cited art, JP10218552.

Claim 10 recites a tool for installing slats on a triangular slat holder. The tool comprises “an upper plate assembly,” “a lower plate assembly connected to said upper plate assembly,” “a pair of side plates connected to said lower plate assembly, wherein each said side plate includes at least one roller assembly that extends beyond said side plate” and “an engaging assembly attached to said upper plate assembly and said lower plate assembly, engagement of said engaging assembly causes a bottom of said first side plate to move toward a bottom of said second side plate.”

JP10218552 does not describe nor suggest a tool which includes both an upper plate assembly and a lower plate assembly. As such, side plates connected to a lower plate assembly are neither described nor suggested. In addition, at least one roller assembly that extends beyond the side plate is neither described nor suggested. Rather, and as described above, JP10218552 describes two frame members and a pair of rotating members (bases 40) extending between the ends of the two frame members forming a substantial rectangle. The combination of the two frame members and two rotating members in combination cannot be reasonably be construed as a plate assembly as a plate assembly would be understood to include a reasonably solid surface.

A side board is attached to each rotating member using two legs. The side boards rotate inward when an upward force is applied to respective protrusions that extend inward from each

rotating member. Nothing in JP10218552, specifically, legs 42 can be reasonably construed as a side plate that includes at least one roller assembly that extends beyond the side plate lower given the rest of the claim limitations. Still further, an engaging assembly attached to both an upper plate assembly and lower plate assembly is not anticipated nor suggested by JP10218552.

Further, the Office Action of December 14, 2004 quotes *Ex Parte Marsham, 2 USPQ 2d 1647* stating “recitation with respect to manner in which claimed apparatus is intended to be employed does not differentiate claimed apparatus from prior art apparatus satisfying the claimed structural limitations.” Applicant respectfully submits that *Ex Parte Marsham* does not apply as JP10218552 simply does not satisfy the claimed structural limitations recited in Claim 10, nor for the claims which depend from Claim 10 as further described below. For the reasons set forth above, Claim 10 is submitted to be patentable over JP10218552.

Claims 11-14 depend, directly or indirectly, from independent Claim 10. When the recitations of Claims 11-14 are considered in combination with the recitations of Claim 10, Applicants submit that dependent Claims 11-14 likewise are patentable over JP10218552.

In addition to the reasons given above, it is submitted that, for example, Claim 13 is patentable over JP10218552 due to the recitation that the “lower plate assembly is biased away from said upper plate assembly with at least one biasing member”. In the Office Action the lower plate assembly has been equated to the items denoted by 16 and 42 in JP10218552 and the upper plate assembly has been equated, at least in part, to the item denoted by 26 in JP10218552. It is apparent from the figures of JP10218552, that there is no biasing member that biases 16 and 42 from 26. As such, it is respectfully submitted that Claim 13 is patentable over the cited art.

With respect to Claims 11 and 14, similarly to the above explanations relating to the recitations of Claims 13, recitations are included within each of Claims 11 and 14 which cannot be reasonably construed as being rendered obvious by JP10218552. Therefore it is once again submitted that Claims 11, and 14 are patentable over the cited art, JP10218552. Claim 12 has been canceled.

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For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1-14 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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